

## GUIDELINES FOR PRO SE PARTIES IN THE EASTERN DISTRICT OF TEXAS

These guidelines are designed to help persons who represent themselves in lawsuits become familiar with the rules and procedures which must be followed in the United States District Court for the Eastern District of Texas. We have attempted to simplify procedures; however, we cannot act as lawyers nor give legal advice. We have attached a copy of the Local Rules of practice (Sample 1) for the Eastern District of Texas. You should use these rules along with the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure are available at a public library.

In pro se status you are representing yourself and acting on your own behalf without a lawyer. (However, if you wish, you can file a motion for appointment of counsel to be presented to the judge for consideration.) The following requirements must be met in order to file new cases or answer complaints in the Eastern District of Texas.

1. Filing Fee: A \$150.00 filing fee is required when filing a complaint. A person who cannot pay the filing fee and costs of the suit may request to proceed in forma pauperis. The request must be submitted with the complaint and must be accompanied by an affidavit setting forth the person's financial resources. A form affidavit is attached. (Sample 2)

2. Cover Sheet: A cover sheet is required and must be filled out completely. An original is all that is needed for filing. (Sample 3)

3. Complaint: The complaint can be typed or handwritten in black ink. A person filing a complaint against someone else is called the plaintiff. The person or persons the complaint is against are called the defendant/defendants. Your complaint should be legible and clearly stated so that it is easily understood. You should clearly set out your grievance, against whom, and what you would like the Court to do for you. An original and a copy for the Court, plus a copy for each defendant, are required for filing. (Sample 4) The complaint and all subsequent pleadings must include the plaintiff's address and telephone number, and must be signed by the plaintiff. **It is mandatory that pro se parties keep the Clerk of Court informed of their current address and telephone number during the entire case.** It is very important that we are given updated information so that the Court can contact you if it is necessary to obtain further information or clarification, or advise you of any changes in hearing schedules. **Failure to do so could result in your case being dismissed.** The complaint and all future filings must be double spaced on 8 ½ inch by 11 inch white paper.

4. Summons: The plaintiff is responsible for seeing that a summons and a copy of the complaint is served upon each defendant in the lawsuit by designating a person over the age of 18 years who is not a party in the case to make service. If you are proceeding in forma pauperis, the summons will not be issued when you file your complaint, but when the Court so orders. Failure to serve the summons and complaint within 120 days after the filing of the complaint (or after the in forma pauperis motion is granted) is grounds for dismissal as to each defendant not served. Two copies of the summons for each defendant must be completed and submitted to the Clerk of Court with the complaint. Summons forms are available in the Clerk's Office. Defendants have twenty (20) days, with the exception of United States defendants who have sixty (60) days, to file an answer after they are served with the complaint. (Sample 5) PLEASE BE AWARE THAT YOU ARE RESPONSIBLE FOR THE TIMELY MOVEMENT OF YOUR CASE.

5. Answer: As stated above, the defendant in an ordinary civil case will have twenty (20) days from the date of service of the complaint to answer. The United States or a federal official will have sixty (60) days to answer. Just as the plaintiff in the complaint must make a short and plain statement of the claim, the defendant in the answer must state the defenses to the claim and either admit or deny the specific allegations contained in the complaint. See Federal Rules of Civil Procedure 8(b). As with the complaint and all other pleadings, the answer and all subsequent pleadings must include the defendant's address and telephone number, and must be signed by the defendant. A defendant must file the answer with the Clerk of the Court and serve a copy on the opposing party. Failure to answer or otherwise defend in a timely fashion may be grounds for judgment by default against the defendant. See Federal Rules of Civil Procedure 55.

6. Jury Demand: If you would like a jury in your case, there are two ways you can request one. At the time of filing your complaint or answer, at the top of this pleading immediately below where the case number should be, type the word "JURY". The other way to request a jury is to timely file a separate jury demand. See Local Rule CV-38.

7. Certificate of Service: After a defendant has answered, any motions or other pleadings filed with the Court by either party shall bear a "Certificate of Service" (a sample is shown on the next page). It is your responsibility to serve the opposing attorney or pro se party with a copy of any pleading that is submitted for filing. The Clerk does not do this. Any paper which fails to include a certificate of service will be returned to you. You are cautioned that it is improper to communicate directly with the district judges or magistrate judges other than through a document filed with the Clerk's office.

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded by first class mail to each attorney/party of record this (DATE).

Your Signature

8. Service of process: Rule 4 of the Federal Rules of Civil Procedure provides detailed requirements for service of summons and complaints in civil actions. Refer to Rule 4 when questions arise concerning service of process and returns on service. One of the summons forms and a file-marked copy of the complaint are served on each defendant. The other summons form is used by the server to certify how and when service was made. This is done by completing the reverse of the summons and then returning it to the Clerk. If service is done by certified mail, the original of the green card is to be attached to the returned copy of the summons.

9. Consent to Disposition by a Magistrate Judge: In accordance with Title 28 USC, Section 636(c), the parties may consent, by written request that "any or all proceedings in a jury or non-jury civil matter" may be conducted by a full-time magistrate judge. This civil jurisdiction includes entry of judgment at the conclusion of the case.

All full-time magistrate judges in the Eastern District of Texas have been specially designated to exercise jury or non-jury civil jurisdiction.

Appeal from judgment of the magistrate judge must be to the Fifth Circuit Court of Appeals, in the same manner as an appeal from any other judgment of a district court.

When a plaintiff files a complaint, the Clerk, as required by 28 USC Section 636(c)(2), shall provide this notice. Forms for consent are attached. (Sample 6) Plaintiff shall complete the selected form, if desired, at the time of filing or at any time within 10 days of such filing, and mail it directly to the Clerk. When an answer is filed, the Clerk shall provide the defendant with a copy of this notice.

Consent of the parties is voluntary and the parties are free to withhold consent without adverse consequences. Consent to magistrate judge jurisdiction shall be communicated directly to the Clerk of the United States District Court by completing a consent form. The District Judge, upon receipt by the Clerk of consent by all parties may then refer the civil case to the appropriate magistrate judge.